

DEPARTMENT OF STATE REVENUE

Revenue Ruling # 99-09 ST

July 14, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax – Lease of Photocopiers

Authority: IC 6-2.5-2-1, IC 6-2.5-3-4, IC 6-2.5-4-1, IC 6-2.5-4-10, IC 6-2.5-5-3, IC 6-2.5-5-8

The taxpayer requests the Department to rule on whether the lease of a photocopier that is provided to customers for self-service use constitutes equipment exempt from sales and use taxes.

STATEMENT OF FACTS

The taxpayer leases black and white and color copiers from vendors. The taxpayer uses the copiers in its business. The taxpayer allows customers to make black and white or color copies for a fee. The copiers can also be used as a printer. Customers can send documents to the copier in electronic format and the copier/printer will make a hard copy of the document. The taxpayer collects sales tax on the sale of photocopies and remits such to the state. For use of the copiers, the taxpayer pays a flat lease payment to the vendor. The taxpayer pays an additional amount, a click fee, for each reproduction made by the copier.

DISCUSSION

Indiana imposes a state gross retail tax on retail transactions made in Indiana. IC 6-2.5-2-1(a). A person is a retail merchant making a retail transaction when he rents or leases tangible personal property to another. IC 6-2.5-4-10. However, IC 6-2.5-5-3(b) provides that: Transactions involving machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property. IC 6-2.5-5-3(b). Manufacturing machinery, tools, and equipment that are exempt from sales tax are also exempt from use tax. IC 6-2.5-3-4. Thus, the dispositive issue is whether the taxpayer is using the property for the purpose of manufacturing.

In the situation at bar, the taxpayer is not acquiring the copiers for direct use in manufacturing copies. The taxpayer is a business in which customers use the copiers on a self-serve basis; therefore, it is not the taxpayer that is utilizing the copiers to manufacture copies.

However, tangible personal property is exempt from state gross retail tax when the property is acquired for resale, rental, or leasing in the normal course of one's business. IC 6-2.5-5-8. Since the taxpayer purchases supplies, such as paper and toner, to sell to its customers for consideration, any copier supplies that are purchased for the copiers are exempt from sales/use tax.

It should also be noted that pursuant to IC 6-2.5-4-1 and IC 6-2.5-2-1, the taxpayer is required to collect sales/use tax from its customers on the sales of photocopies.

RULING

The Department rules that the taxpayer shall pay applicable sales and use tax on the leased photocopiers. The taxpayer's purchases of copier supplies, such as paper and toner, will be exempt of sales/use tax. Also, the taxpayer must also collect sales/use tax from its customers for all photographic prints sold.

CAVEAT

This Ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

DEPARTMENT OF STATE REVENUE